

Applicant : Michael Nottley
Serial No.: 10/585,769

Date: 1/12/09

Response to Office Action of June 18, 2008
and Notice of Non-Compliant Amendment of January 5, 2009

REMARKS/ARGUMENTS

In response to the Notice of Non-Compliant Amendment, dated January 5, 2009, corrections have been made to claims 10 and 27 in order to remove the errors noted in the Notice.

Favorable reconsideration is respectfully requested in view of the above amendments and the following discussion.

Claims 1 and 3 through 8 have been rejected under 35 U.S.C. 102(b) as being anticipated by Caggiano (5308077). Claims 1 and 3 through 8 have been amended to set forth subject matter which includes a first die, a second die and a third die, and to point out that the second die and the third die are relatively configured and arranged so that the second die tends to yield higher scores than the third die. As described in the specification, at page 12, lines 3 through 9, this feature provides the Home Team with a home team advantage over the Away Team, while providing the Away Team with an opportunity to cause an upset, all of which adds to the excitement of the game. Caggiano discloses the use of only two dice, and only as a means for controlling the progress of players around the board. In contradistinction, the claims of the present invention set forth a first die, a second die and a third die, all of which are employed to determine the outcome of head-to-head

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matches between players. Moreover, there is no suggestion in Caggiano of two dice being relatively so configured and arranged that one die tends to yield higher scores than the other die. Accordingly, the present claims set forth subject matter which is neither anticipated nor rendered obvious by Caggiano, and it is respectfully requested that the rejection based upon Caggiano be withdrawn.

Claims 1, 2, 25 through 27, and 28 through 34 have been rejected under 35 U.S.C. 102(b) as being anticipated by Pierce (4832346). Pierce describes the use of a "pair of dice" to control the movement of players around the board (see column 2, line 36), and prefers to use only one die for movement of the "inner track" represented by squares 1-32, and both dice on the outer track represented by squares 33-72 (see column 8, lines 13 to 16). Pierce provides a contest among players (for instance at the so-called "dogfight" square 27, as described at column 12, lines 48 to 60) which is determined by scores from the two dice. There is no suggestion in Pierce of the use of a third die nor, in particular, that the second die and a third die be relatively so configured and arranged that the second die tends to yield higher scores than the third die, as set forth in the present claims. Moreover, present

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claim 28 calls for a total of four dice, namely, a game die which controls the progress of players around the board, two match dice which determine the outcome of matches between players, and an adjunctive die which provides for penalties. Neither Pierce nor Caggiano provides four dice, and neither reference points to the use of four dice as set forth in present claim 28. Accordingly, the subject matter of the present claims is neither anticipated nor rendered obvious by either Pierce or Caggiano, and it is respectfully requested that the rejection be withdrawn.

Claims 9 through 21 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Pierce. The shortcomings of Pierce in rendering obvious the subject matter of these claims are enumerated in detail above. Accordingly, for the same reasons as set forth above, it is respectfully submitted that the subject matter of the present claims is neither anticipated nor rendered obvious by Pierce, and it is respectfully requested that the rejection be withdrawn.

Claims 22 through 24 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Pierce in view of Romaniello. Once again, the shortcomings of the disclosure in Pierce, as discussed above, are equally applicable in considering the patentability of

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the present claims. Romaniello provides three "drawing means", two of which (the "game dice" 12) are thrown by opposing players in head-to-head "encounters". In a simplified execution, described at column 5, lines 1 to 7 of Romaniello, the player with the higher score is the winner of the encounter. However, there is no suggestion in Romaniello of the two game dice 12 being relatively so configured and arranged that the second die tends to yield higher scores than the third die, as set forth in the present claims. Further, in a second execution described at column 5, lines 8 to 28 of Romaniello, the outcome of an encounter is determined by the throw of the third die, the so-called "forecast die" 11 (which is itself of unconventional form). This arrangement points away from the feature of the present invention whereby the outcome of a match is determined from the scores obtained when the opposing players roll their respective dice. Thus, the disclosure in Romaniello would direct a person of ordinary skill in the art to follow a course leading away from the present invention. Accordingly, Romaniello adds nothing which could anticipate or render obvious the subject matter of the present claims.

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It is respectfully submitted that all of the claims in the application set forth subject matter which distinguishes patentably over the prior art, and it is respectfully requested that the claims be allowed and the application be passed to issue.

Respectfully submitted,


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